



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 151

[Docket No. USCG-2012-0924]

RIN 1625-AB68

Ballast Water Management Reporting and Recordkeeping

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

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SUMMARY: The Coast Guard proposes to amend its existing ballast water management (BWM) reporting and recordkeeping requirements. The Coast Guard will require vessels with ballast tanks operating exclusively on voyages between ports or places within a single Captain of the Port (COTP) Zone to submit an annual report of their BWM practices. The Coast Guard also proposes to update the current ballast water report to include only data that is essential to understanding and analyzing BWM practices. The proposed rule will allow most vessels to submit ballast water reports after arrival to the port or place of destination.

DATES: Comments and related material must either be submitted to our online docket via <http://www.regulations.gov> on or before **[INSERT DATE 60**

**DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]** or reach the Docket Management Facility by that date.

Comments sent to the Office of Management and Budget (OMB) on collection of information must reach OMB on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may submit comments identified by docket number USCG-2012-0924 using any one of the following methods:

(1) Federal eRulemaking Portal:

<http://www.regulations.gov>.

(2) Fax: 202-493-2251.

(3) Mail: Docket Management Facility (M-30), U.S.

Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590-0001.

(4) Hand delivery: Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

To avoid duplication, please use only one of these four methods. See the "Public Participation and Request for Comments" portion of the SUPPLEMENTARY INFORMATION section below for instructions on submitting comments.

Collection of Information Comments: If you have comments on the collection of information discussed in section VI.D of this NPRM, you must also send comments to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget. To ensure that your comments to OIRA are received on time, the preferred methods are by e-mail to [oira\\_submission@omb.eop.gov](mailto:oira_submission@omb.eop.gov) (include the docket number and "Attention: Desk Officer for Coast Guard, DHS" in the subject line of the e-mail) or fax at 202-395-6566. An alternate, though slower, method is by U.S. mail to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, ATTN: Desk Officer, U.S. Coast Guard.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or e-mail LCDR Rodney Wert, Environmental Standards Division, U.S. Coast Guard (CG-OES-3); telephone 202-372-1434, e-mail, [rodney.wert@uscg.mil](mailto:rodney.wert@uscg.mil).

If you have questions on viewing or submitting material to the docket, call Ms. Barbara Hairston, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

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#### I. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided.

##### A. Submitting comments

If you submit a comment, please include the docket number for this rulemaking (USCG-2012-0924), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use

only one of these means. We recommend that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov> and insert "USCG-2012-0924" in the "Search" box. Click on "Submit a Comment" in the "Actions" column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and material received during the comment period and may change this proposed rule based on your comments.

#### B. Viewing comments and documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov> and insert "USCG-2012-0924" in the "Search" box. Click the "Open Docket Folder" in the "Actions" column. If you do not have access to the internet, you may view the docket online by visiting the Docket Management Facility in Room W12-140 on the ground

floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

#### C. Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the Federal Register (73 FR 3316).

#### D. Public meeting

We do not now plan to hold a public meeting. You may submit a request for one to the docket using one of the methods specified under ADDRESSES. In your request, explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the Federal Register.

#### II. Abbreviations

BWM	Ballast Water Management
CFR	Code of Federal Regulations
COTP	Coast Guard Captain of the Port

EEZ	Exclusive Economic Zone
MISLE	Marine Information for Safety and Law Enforcement
NANPCA	Non-indigenous Aquatic Nuisance Prevention and Control Act of 1990
NBIC	National Ballast Information Clearinghouse
NIS	Nonindigenous Species
NISA	National Invasive Species Act of 1996
OMB	U.S. Office of Management and Budget
RFA	Regulatory Flexibility Act
SANS	Ship Arrival Notification System

### III. Background

The Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (NANPCA), as amended by the National Invasive Species Act of 1996 (NISA), requires the Secretary of Homeland Security (the Secretary) to ensure, to the maximum extent practicable, that aquatic nuisance species are not discharged into waters of the United States from vessels. 16 U.S.C. 4711(c)(2)(A). The Secretary is also directed to prescribe requirements for vessels to maintain and submit information on their ballasting practices, as a means for the Secretary to determine vessels' effective compliance with the ballast water management (BWM) program. 16 U.S.C. 4711(c)(2)(F).

The Commandant of the Coast Guard carries out these functions and authorities for the Secretary pursuant to a delegation of authority charging the Coast Guard with establishing and enforcing regulations to prevent the introduction and spread of aquatic nuisance species in the

waters of the United States through the ballast water of vessels. Department of Homeland Security Delegation No. 0170.1(II.) (57).

A full discussion of the legislative and regulatory history of the Coast Guard's actions to implement both NANPCA and NISA may be found in the final rule for "Standards for Living Organisms in Ships' Ballast Water Discharged in U.S. Waters," published on March 23, 2012. 77 FR 17254.

The Coast Guard proposes to amend its existing BWM reporting and recordkeeping requirements (OMB Control Number 1625-0069) to require vessels equipped with ballast tanks and operating exclusively on voyages between ports or places within a single Captain of the Port (COTP) Zone to submit an annual summary report of their BWM practices. By making this change, the Coast Guard will be able to obtain a better understanding of the BWM practices of vessels that were previously exempt from reporting. This would improve the breadth and quality of available BWM information, enabling the Coast Guard and others to make the most informed programmatic and regulatory decisions.

The Coast Guard also proposes to update the current ballast water report form so it includes only data that is essential to understanding and analyzing ballast water



management practices. For those vessels currently required to submit BWM reports and maintain BWM records, the amendments are aimed at simplifying and clarifying the reporting and recordkeeping process and reducing the associated administrative burden. The proposed rule will also allow vessels that are not bound for the Great Lakes or the Hudson River, north of the George Washington Bridge from outside of the Exclusive Economic Zone, to submit ballast water reports after arrival to the port or place of destination.

#### IV. Discussion of Proposed Rule

As detailed in Section V.A.4 of the final rule "Standards for Living Organisms in Ships' Ballast Water Discharged in U.S. Waters," (March 23, 2012 - 77 FR 17254), the Coast Guard postponed amending BWM reporting and recordkeeping requirements to a future rulemaking project. The Coast Guard now proposes to update the reporting and recordkeeping requirements.

This proposed rule would require vessels with ballast tanks and operating exclusively on voyages between ports or places within a single COTP Zone to submit an annual summary report of their BWM practices. The Coast Guard does not currently collect BWM information on this segment of the maritime population. The "Standards for Living

Organisms in Ships' Ballast Water Discharged in U.S. Waters" rulemaking highlighted the need for additional data to be reported by these vessels. The Coast Guard is proposing a streamlined approach to meet this need with minimal burden to the public, requiring an annual submission summarizing the applicable BWM practices. This information will assist the Coast Guard in meeting the statutory requirements for maintaining a clearinghouse on national ballast water data and collect additional data for use in future rulemakings, if needed.

The Coast Guard proposes this annual summary report be required for a three year period. The first report would be due no later than March 31 of the first full year following publication of this rule and report on a vessel's ballasting practices for the previous calendar year. For example, if this rule publishes in 2013, the first report would be due no later than March 31, 2015 and report on the vessel's ballasting practices for the calendar year ending December 31, 2014. The third and final report would be due no later than March 31, 2017 and cover the 2016 calendar year.

The Coast Guard also proposes several changes to the recordkeeping and reporting requirements currently prepared by vessels with ballast water tanks that enter U.S. waters.

These changes are intended to: (1) facilitate compliance by aligning Federal recordkeeping requirements with international practices to the greatest extent practicable; (2) minimize the administrative burden on the regulated population by allowing those vessels that are not bound for the Great Lakes or the Hudson River, north of the George Washington Bridge from outside of the Exclusive Economic Zone, to submit ballast water reports after arrival to the port or place of destination, thereby greatly reducing the need for amended reports; and (3) improve efficiency in data handling by changing the reporting format and encouraging electronic report submission. Due to additional compliance monitoring for vessels bound for the Great Lakes and Hudson River, above George Washington Bridge, those vessels will still need to submit reports 24 hours prior to their arrival.

The revised form is discussed below in section VI.D, Collection of Information. The form is available in the docket for this rulemaking (USCG-2012-0924).

## V. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 14 of these statutes or executive orders.

#### A. Regulatory Planning and Review

Executive Orders 12866 ("Regulatory Planning and Review") and 13563 ("Improving Regulation and Regulatory Review") direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility.

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget (OMB) has not reviewed it under that Order. Nonetheless, we developed an analysis of the costs and benefits of the proposed rule to ascertain its probable impacts on industry. We consider all estimates and analysis in this Regulatory Analysis to be draft and subject to change in consideration of public comments. Table 1 presents a summary of the economic

impact of the proposed rule. A detailed description of the estimates is presented in the next sections.

Table 1. Summary of Regulatory Economic Impacts

Proposed Changes	Description	Affected Population	Costs (7% discount rate)		Benefits
			Annualized	Total	
1. Require vessels operating exclusively on voyages between ports and places within one COTP Zone to report ballast water management practices.	Owners and operators of vessels with ballast tanks and operating exclusively on voyages between ports or places within one COTP Zone would be required to submit an annual summary of their ballast water management practices. This information collection requirement would be for a 3 year period.	400 owners and operators of 1,280 vessels operating in one COTP Zone.	\$22,110	\$155,292	Improve the breadth and quality of BWM data, enabling the Coast Guard and others to make the most informed programmatic and regulatory actions to prevent nonindigenous species (NIS) invasions in U.S. waters.
2. Update current ballast water report requirements.	Update current ballast water report. Vessels already complying with 33 CFR 151.2070 requirements would not incur additional burden due to the updates.	Vessels currently reporting ballast water management activities under 33 CFR 151.2070	\$0	\$0	Concise reporting and inclusion of only essential data on ballast water management practices.
3. Allow vessel owners and operators to submit ballast water reports after arrival to the port or place of destination	Currently, vessels are required to submit reports 24 hours prior to arrival. Allowing vessels to report after arrival - when their ballasting activities are complete - should greatly reduce the need for post-arrival amendments.	Vessels currently reporting ballast water management activities under 33 CFR 151.2070	(\$184,868) Cost savings	(\$1,298,437) Cost savings	Reduce the administrative burden on the regulated population. We estimate that this proposed rule will eliminate an average of 10,717 post-arrival reports per year.
4. Change the format of electronic report.	Standardize the data format and add pull down menus to reduce data entry errors.	Vessels currently reporting ballast water management activities under 33 CFR 151.2070	\$0	\$0	Facilitate electronic report submission and improve efficiency in data handling and analysis.

A draft Regulatory Analysis follows. This proposed rule would modify and amend the following recordkeeping requirements and procedures:

1. Require vessels operating in one COTP Zone to report ballast water management practices.

In this proposed rule, the Coast Guard would require owners and operators of vessels with ballast tanks operating exclusively on voyages between ports or places within a single COTP Zone to submit an annual summary report of their ballast water management practices for a period of 3 years.

Based on data from the Coast Guard Marine Information for Safety and Law Enforcement (MISLE) and the Ship Arrival Notification System (SANS), we estimate that the proposed rule would have an annual affect on 1,280 U.S.-flagged vessels that operate exclusively between ports or places within one COTP Zone. Table 2 presents the vessel types affected by this requirement. These vessels are currently exempted from the ballast water reporting requirements under 33 CFR 151.2070. Owners and operators of these vessels would be required to submit an annual summary report of their BWM practices to the Coast Guard for a period of 3 years.

Table 2. U.S. Flag Vessels Operating Exclusively between Ports or Places within one COTP Zone

Vessel Type	Affected Population
Commercial Fishing Vessel	117
Fish Processing Vessel	4
Freight Ship	117
Industrial Vessel	28
Mobile Offshore Drilling Unit	5
Offshore Supply Vessel	175
Oil Recovery	6
Passenger (inspected)	154
Passenger (uninspected)	3
Research Vessel	11
Tank Ship	29
Towing Vessel	604
Other Vessels <sup>1</sup>	27
<b>Total</b>	<b>1,280</b>

Source: MISLE and SANS data

For the purposes of the cost analysis, we assume that all vessels discharge ballast water. We estimated that the total annual burden hours required would be approximately 40 minutes per vessel per year.

We anticipate vessels would need 15 minutes to fill out and submit their annual ballasting report. Most of the information required is well known by the vessel manager and does not require additional document consultation. The information that does not require additional document consultation includes: vessel name, identification number, type, operator, tonnage, call sign, COTP Zone of operation, number of ballast water tanks, total ballast water

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<sup>1</sup> Includes permanently moored vessels, school ships, and vessels with unspecified vessel type.

capacity, and primary port of ballast water loading and discharge.

We formulate that the remaining 25 minutes is the total time allocated (over the entire year) for vessel operators to assemble and evaluate information to estimate the number of trips where ballast water is discharged and the volume of discharge occurring during vessel operations. While there is certainly the possibility that some vessels may take longer for this, vessels that do not discharge ballast water will incur only 15 minutes to fill out and submit the annual form.

We assume that the vessel manager, with an estimated wage rate of \$69/hr<sup>2</sup>, would be in charge of this reporting. The annual cost per vessel is \$46.23 (.67 hrs x \$69/hr) and the total cost per vessel for the 3-year period is \$137. The estimated annual cost of the new reporting requirement for the 1,280 vessels, operating exclusively between ports or places within a single COTP Zone, is, \$59,174 (1,280 vessels X .67 hrs X \$69 hr) (undiscounted). The total cost for a reporting period of 3 years is \$177,522 (undiscounted) or \$155,291 (at seven percent discount rate). Table 3 presents the reporting costs for vessels

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<sup>2</sup> Fully loaded wage rate for GS-12 (equivalent) out-of-govt., obtained from Enclosure (2) to COMDTINST 7310.1M and validated based on the Bureau of Labor Statistics (BLS) subcategory Managers (Occupation Code 11-9199).



operating exclusively between ports or places within a single COTP Zone.

Table 3. Annual and Total Cost of Reporting (in US\$) for Vessels Operating Exclusively Between Ports or Places within a Single COTP Zone

Year <sup>3</sup>	Cost		
	undiscounted	at 7 percent discount rate	at 3 percent discount rate
1	\$59,174	\$55,303	\$57,450
2	\$59,174	\$51,685	\$55,777
3	\$59,174	\$48,304	\$54,153
4-10	\$0	\$0	\$0
Total	\$177,523	\$155,292	\$167,380
Annualized		\$22,110	\$19,622

This proposed rule would collect information on ballast water operations from vessels operating exclusively between ports or places within a single COTP Zone; a segment of the industry for which the Coast Guard has limited information. Comments to the recent ballast water discharge standard regulatory docket (Docket No. USCG-2001-10486) asserted that the Coast Guard does not fully understand ballasting practices of this segment of the maritime industry. The Coast Guard seeks to improve the breadth and quality of its BWM data so it can make the most informed programmatic and regulatory actions, to evaluate

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<sup>3</sup> The Coast Guard anticipates the information collection requirement would lapse after the completion of 3 years.

if the need for further regulation is required for this specific population.

Coast Guard considered several alternatives for collecting the needed information on the ballast practices for vessels operating exclusively between ports or places within a single COTP Zone. One alternative would require these vessels to complete a full ballast water reporting form (33 CFR 151.2070) upon each entry into port, similar to existing requirements for other vessels operating outside a single COTP Zone. The Coast Guard instead chose the proposed alternative that requires only an annual summary report of ballast activities with a limited number of required data elements. The Coast Guard is also proposing to collect this data for only 3 years. Coast Guard believes that the annual summary report for 3 years provides sufficient information necessary to characterize ballast practices for vessels operating exclusively between ports or places within a single COTP Zone, while minimizing the reporting burden to these entities.

2. Update current ballast water report requirements (33 CFR 151.2070).

The Coast Guard proposes to update the ballast water reporting form to make it more concise and include only essential data on ballast water management practices.

Current recordkeeping requirements on 33 CFR 151.2070 would be amended to include only data fields essential for understanding and analyzing ballast water management practices of vessels operating in waters of the U.S.

Vessels that are already submitting ballast water reports to comply with 33 CFR 151.2070 requirements would not incur additional burden due to the reporting updates. Updates to the reporting would make questions clear and concise. We do not expect a significant reduction in burden due to these changes because two additional required items would be likely to offset any time savings. The most time consuming report section (section 5, "Ballast Water History") would be restructured, but the content would be maintained. Currently, vessels equipped with ballast water tanks bound for ports or places within the U.S. or entering U.S. waters are required to submit a ballast water report. According to the OMB collection of information 1625-0069, it takes approximately 40 minutes to complete and submit the report. The Code of Federal Regulations at 33 CFR 151.2070 presents detailed information on reporting and recordkeeping requirements. This proposed rule would make updates to the reporting that would not result in a significant change of burden. Therefore, there is no additional cost associated with these changes.

In updating the current reporting form, the Coast Guard would improve the utility of the data provided by the vessel population already required under existing regulations to submit reports to the Coast Guard.

3. Allow vessels to submit ballast water reports after arrival to the port or place of destination.

Under the current 33 CFR 151.2060, vessels are required to submit reports on ballast water management 24 hours before arrival and predict their ballasting operations. The National Ballast Information Clearinghouse (NBIC) estimates that approximately 40 percent of the amended reports it receives are due to the timing of the reports. In these cases, vessels owners and operators revise their reports with the actual ballasting information and resubmit them to the NBIC. Allowing those vessels that are not bound for the Great Lakes or the Hudson River, north of the George Washington Bridge from outside of the Exclusive Economic Zone, to submit ballast water reports after arrival to the port or place of destination greatly reduces the need for amended reports. We estimate that an average of 10,717 reports<sup>4</sup> are amended and resubmitted every year due to the timing of submission. We estimate that it would take the vessel manager approximately 15 minutes to

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<sup>4</sup>The estimate is based on data provided by NBIC on superseded reports for 2006 to 2012.

amend and resend the reports. Therefore, we expect that this amendment will result in an annual reduction of burden of approximately 2,679 hours (10,717 reports x 0.25 hours<sup>5</sup>), representing a cost savings of \$184,868 (2,679 hours x \$69/hr<sup>6</sup>) per year to the industry. The total cost savings (Table 4) that results from allowing report submittal after arrival at a port for a 10-year period is \$1,298,437 (at 7 percent discount rate).

Table 4. Annual and Total Cost Savings of Changing the Time of the Report

Year	Cost Savings		
	undiscounted	at 7 percent discount rate	at 3 percent discount rate
1	(\$184,868)	(\$172,774)	(\$179,484)
2	(\$184,868)	(\$161,471)	(\$174,256)
3	(\$184,868)	(\$150,908)	(\$169,181)
4	(\$184,868)	(\$141,035)	(\$164,253)
5	(\$184,868)	(\$131,809)	(\$159,469)
6	(\$184,868)	(\$123,186)	(\$154,824)
7	(\$184,868)	(\$115,127)	(\$150,315)
8	(\$184,868)	(\$107,595)	(\$145,937)
9	(\$184,868)	(\$100,556)	(\$141,686)
10	(\$184,868)	(\$93,978)	(\$137,559)
Total	(\$1,848,683)	(\$1,298,437)	(\$1,576,964)
Annualized		(\$184,868)	(\$184,868)

#### 4. Change the format of electronic reports.

<sup>5</sup> Estimation based on time reported in the OMB 1625-0069 from vessel operators currently completing ballast water management reports to comply with 33 CFR 151.2070.

<sup>6</sup> Wage rate obtained from Enclosure (2) to COMDTINST 7310.1M and validated based on the BLS subcategory Managers (Occupation Code 11-9199).

The Coast Guard expects to improve reporting efficiency and data handling by changing the format of the electronic report that can be found in Information Collection Request (ICR), OMB Control number 1625-0069. The proposed changes include standardized data formats and the addition of pull down menus. We do not anticipate any significant change in the reporting burden and, therefore, expect no additional costs or cost savings to the industry. According to the NBIC data from the past 6 years, approximately 99 percent of reports have been submitted electronically. In recent years, 100 percent of the reports have been submitted electronically. Standardized data entry would improve data quality and, as a result, data analyses would be easier and less time consuming.

#### 5. Summary of Economic Impact of Proposed Rule

We estimate that this proposed rule would result in a total and annualized cost savings of \$1,143,145 and \$162,758 respectively, at 7 percent discount rate, over a 10-year period of analysis. These estimates are developed and shown in Table 5.

Table 5. Annual and Total Economic Impact of Proposed Rule  
(at 7 percent discount rate)

Year	1. Report from vessels operating exclusively in one COTP Zone (cost)	2. Update Current Ballast Water Report	3. Allow vessels to submit reports after arrival (cost savings)	4. Require reports be submitted electronically	Economic Impact of Proposed Rule
1	\$55,303	\$0	(\$172,774)	\$0	(\$117,471)
2	\$51,685	\$0	(\$161,471)	\$0	(\$109,786)
3	\$48,304	\$0	(\$150,908)	\$0	(\$102,604)
4	-	\$0	(\$141,035)	\$0	(\$141,035)
5	-	\$0	(\$131,809)	\$0	(\$131,809)
6	-	\$0	(\$123,186)	\$0	(\$123,186)
7	-	\$0	(\$115,127)	\$0	(\$115,127)
8	-	\$0	(\$107,595)	\$0	(\$107,595)
9	-	\$0	(\$100,556)	\$0	(\$100,556)
10	-	\$0	(\$93,978)	\$0	(\$93,978)
Total	\$155,292	\$0	(\$1,298,437)	\$0	(\$1,143,145)
Annualized	\$22,110	\$0	(\$184,868)	\$0	(\$162,758)

Note: Totals may not add due to rounding

#### B. Small Entities

Under the Regulatory Flexibility Act (RFA) (5 U.S.C. 601-612), we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

As described in the "Regulatory Analyses" section, we expect minimal costs per vessel (an annual cost of \$45.54 for a 3-year period) to owners of vessels operating

exclusively between ports or places within a single COTP Zone. Based on available data, we estimate that about 74 percent of entities affected by this proposed rule are small under the RFA and the Small Business Administration's size standards. The economic impact of the 3-year reporting requirement is less than 1 percent of revenue for 100 percent of the small entities. We estimate that small entities will experience an average annual cost of \$139 (non-discounted) (cost is based on small entities managing, on average, 3 vessels). Therefore, the Coast Guard expects that this proposed rule would not have a significant economic impact on small entities. Through this proposed rule, the Coast Guard would obtain information on ballast water operations from a segment of the industry for which there is limited information, and improve the utility of the data provided to Coast Guard.

Owners and operators of applicable vessels already reporting ballast water management practices under 33 CFR 151.2070 would incur a cost savings as a result of the elimination of post-arrival amendments due to time of the reporting.<sup>7</sup>

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<sup>7</sup> In this proposed rule, most vessel owners and operators would be allowed to report ballast water management practices after arrival instead of 24 hours prior to arrival, as it is currently required under 33 CFR 151.2070. Due to additional compliance monitoring for vessels bound for the Great Lakes and Hudson River, above George Washington



Therefore, the Coast Guard certifies that under 5 U.S.C. 605(b), this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment to the Docket Management Facility at the address under ADDRESSES. In your comment, explain why you think it qualifies and how and to what degree this rule would economically affect it.

#### C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult LCDR Rodney Wert, Environmental Standards Division, U.S. Coast Guard (CG-OES-3); telephone 202-372-1434, e-mail, [rodney.wert@uscg.mil](mailto:rodney.wert@uscg.mil). The Coast Guard will not retaliate

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Bridge, those vessels will still need to submit reports 24 hours prior to their arrival under 33 CFR 151.1516.

against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247).

#### D. Collection of Information

This proposed rule would modify an existing collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520). As defined in 5 CFR 1320.3(c), "collection of information" comprises reporting, recordkeeping, monitoring, posting, labeling, and other, similar actions. The title and description of the information collections, a description of those who must collect the information, and an estimate of the total annual burden follow. The burden hour estimates cover the time for reviewing instructions, searching existing sources of data, gathering and maintaining the data needed, and completing and reviewing the collection.

TITLE: Ballast Water Management Reporting and  
Recordkeeping

OMB CONTROL NUMBER: 1625-0069

SUMMARY OF THE COLLECTION OF INFORMATION: This proposed rule would modify the existing BWM recordkeeping requirements in 33 CFR 151.2070 and amend the ballast water report (OMB Control Number 1625-0069). In this proposed rule, the Coast Guard would require vessels with ballast tanks and operating exclusively on voyages between ports or places within a single COTP Zone to submit an annual summary report of their BWM practices for 3 years. The Coast Guard also proposes to update the ballast water report to include only data that are essential to understanding and analyzing ballast water management practices. The proposed rule would also allow most vessels to submit ballast water reports after arrival to the port or place of destination.

NEED FOR INFORMATION: It is essential for the Coast Guard to improve the breadth and quality of its ballast water management data so it can make the most informed programmatic and regulatory actions to prevent the introduction of aquatic NIS in U.S. waters. Limited information is available for vessels operating exclusively between ports or places within a single COTP Zone, since

most of these vessels are exempted from the reporting requirements of 33 CFR 151.2070.

PROPOSED USE OF INFORMATION: Obtain BWM data for a segment of the industry for which the Coast Guard has limited information and improve the utility of the data provided by the currently regulated vessel population. Additionally, this proposed rule will minimize the administrative burden on the currently regulated population (under 33 CFR 151.2070) by allowing most vessels to submit ballast water reports after arrival and make reporting more concise by including only essential data.

DESCRIPTION OF THE RESPONDENTS: The respondents are:

(a) Owners and operators of vessels with ballast water tanks operating exclusively on voyages between ports or places within a single COTP Zone. These vessel owners and operators are currently exempted from reporting ballast water practices under 33 CFR 151.2070. This proposed rule would require them to submit annual summary reports of their ballast water management practices. The Coast Guard proposes that the information collection requirement end after 3 years.

(b) Owners and operators of vessels currently reporting ballast water management activities under 33 CFR 151.2070.

NUMBER OF RESPONDENTS: The current approved

collection of information (OMB 1625-0069) includes owners and operators of vessels currently reporting ballast water management activities under 33 CFR 151.2070. The current reported number of respondents is 8,383. These respondents would be subjected to the amendments of the ballast water reporting (for more information, see Section V. Regulatory Analyses, A.1, A.2 and A.4 of this preamble) and changes to reporting time (for more information, see Section V. Regulatory Analyses, A.3 of this preamble).

The requirements of this proposed rule would also add 1,280 respondents from vessels with ballast water tanks operating exclusively on voyages between ports or places within a single COTP Zone. Therefore, the total number of respondents would increase by 1,280 to 9,663 (8,383 current respondents + 1,280 new respondents due to the requirements of this proposed rule).

FREQUENCY OF RESPONSE: Current respondents under 33 CFR 151.2070 would continue to report upon arrival to U.S. ports. New respondents (owners and operators of vessels operating exclusively on voyages between ports or places within a single COTP Zone) would have to report once a year for a period of 3 years.

BURDEN OF RESPONSE: We estimate that the response would take approximately 40 minutes per report for vessels

with ballast water tanks operating exclusively on voyages between ports or places within a single COTP Zone.

ESTIMATE OF TOTAL ANNUAL BURDEN: The annual burden is estimated as follows:

(a) Annual burden for new reporting requirement for vessels operating within a single COTP Zone: This rule would create a new burden of 858 hours (1,280 vessels x .67 hours<sup>8</sup>) for the private sector.

(b) Annual burden for current reporting requirements: As described in section V. of this preamble, this proposed rule would allow most vessels to report no later than six hours after arrival (instead of 24 hours prior to arrival as it is currently required under 33 CFR 151.2070). Therefore, this population of vessels would not see a change in the amount of annual burden, since this proposed rulemaking only changes when vessels have to submit the report.

This proposed rule would result in a total annual burden increase of 858 hours due to the new requirement for vessels operating exclusively on voyages between ports or

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<sup>8</sup> The estimation based on time required for reporting. Most information is well known by the vessel manager and does not require additional document or consultation. The questions are: vessel name, number, identification number, type, operator, tonnage, call sign, COTPZ of operation, number of ballast water tanks, total ballast water capacity, primary port of ballast water loading and discharge, estimated number of trips where ballast water is discharged and volume.

places within a single COTP Zone. We estimate the total annual cost burden to be \$59,174 (non-discounted).

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), we will submit a copy of this proposed rule to the Office of Management and Budget (OMB) for its review of the collection of information.

We ask for public comment on the proposed collection of information to help us determine how useful the information is; whether it can help us perform our functions better; whether it is readily available elsewhere; how accurate our estimate of the burden of collection is; how valid our methods for determining burden are; how we can improve the quality, usefulness, and clarity of the information; and how we can minimize the burden of collection.

If you submit comments on the collection of information, submit them both to OMB and to the Docket Management Facility where indicated under ADDRESSES, by the date under DATES.

You need not respond to a collection of information unless it displays a currently valid control number from OMB. Before the Coast Guard could enforce the collection of information requirements in this proposed rule, OMB would need to approve the Coast Guard's request to collect

this information.

E. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

We have analyzed this rule under that Order and have determined that it does not have implications for federalism. NANPCA, as amended by NISA, contains a "savings provision" that saves States their authority to "adopt or enforce control measures for aquatic nuisance species, [and nothing in the Act would] diminish or affect the jurisdiction of any State over species of fish and wildlife." 16 U.S.C. 4725. It also requires that "[a]ll actions taken by Federal agencies in implementing the provisions of [the Act] be consistent with all applicable Federal, State, and local environmental laws." Thus, the congressional mandate is clearly for a Federal-State cooperative regime in combating the introduction of aquatic NIS into the waters of the United States from ships' ballast water.

F. Unfunded Mandates Reform Act



The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### G. Taking of Private Property

This proposed rule would not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### H. Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### I. Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental

Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

J. Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

K. Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore,

it does not require a Statement of Energy Effects under Executive Order 13211.

#### L. Technical Standards

The National Technology Transfer and Advancement Act (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### M. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have made a

preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. A preliminary environmental analysis checklist supporting this determination is available in the docket where indicated under the "Public Participation and Request for Comments" section of this preamble. This rule is likely to be categorically excluded under section 2.B.2, figure 2-1, paragraph (34)(a) of the Instruction. This rule involves regulations that are editorial and procedural. An environmental analysis checklist is available in the docket where indicated under ADDRESSES. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

#### List of Subjects

##### 33 CFR Part 151

Administrative practice and procedure, Ballast water management, Oil pollution, Penalties, Reporting and recordkeeping requirements, Water pollution control.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 151 as follows:

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD

## Subchapter O—Pollution

### PART 151--VESSELS CARRYING OIL, NOXIOUS LIQUID SUBSTANCES, GARBAGE, MUNICIPAL OR COMMERCIAL WASTE, AND BALLAST WATER

#### Subpart C—Ballast Water Management for Control of Nonindigenous Species in the Great Lakes and Hudson River

1. The authority citation for subpart C continues to read as follows:

Authority: 16 U.S.C. 4711; Department of Homeland Security Delegation No. 0170.1.

2. In § 151.1516, revise paragraph (a) to read as follows:

#### § 151.1516 Compliance Monitoring

(a) The master of each vessel equipped with ballast tanks must provide the following information, in written form, to the Captain of the Port (COTP):

\* \* \* \* \*

#### Subpart D--Ballast Water Management for Control of Nonindigenous Species in Waters of the United States

3. The authority citation for subpart D continues to read as follows:

Authority: 16 U.S.C. 4711; Department of Homeland Security Delegation No. 0170.1.

4. Amend § 151.2015 as follows:

- a. Revise paragraph (b);
- b. Redesignate paragraph (c) as paragraph (d);
- c. Add new paragraph (c);

- d. Revise newly redesignated paragraph (d)(3); and
- e. Add Table 1 to paragraph (d) to read as follows:

§ 151.2015 Exemptions.

\* \* \* \* \*

(b) Crude oil tankers engaged in coastwise trade are exempt from the requirements of §§ 151.2025 (ballast water management (BWM) requirements), 151.2060 (reporting), and 151.2070 (recordkeeping) of this subpart.

(c) Vessels that operate exclusively on voyages between ports or places within a single COTP Zone are exempt from the requirements of §§ 151.2025 (ballast water management (BWM) requirements), and 151.2070 (recordkeeping) of this subpart.

(d) \* \* \*

\* \* \* \* \*

(3) Vessels that operate in more than a single COTP Zone and take on and discharge ballast water exclusively in a single COTP Zone.

Table 1. Table of 33 CFR 151.2015 specific exemptions for types of vessels			
	151.2025 (Management)	151.2060 (Reporting)	151.2070 (Recordkeeping)
Department of Defense or Coast Guard vessel subject to 46 U.S.C. 4713	Exempt	Exempt	Exempt

Vessel of the Armed Forces subject to the "Uniform National Discharge Standards for Vessels of the Armed Forces" (33 U.S.C. 1322(n))	Exempt	Exempt	Exempt
Crude oil tankers engaged in coastwise trade	Exempt	Exempt	Exempt
Vessel operates exclusively on voyages between ports or places within a single COTP Zone	Exempt	Applicable	Exempt
Seagoing vessel operates on voyages between ports or places in more than one COTP Zone, does not operate outside of EEZ, and $\leq$ 1600 gross register tons or $\leq$ 3000 gross tons (ITC)	Exempt	Applicable	Applicable
Non-seagoing vessel	Exempt	Applicable	Applicable (unless operating exclusively on voyages between ports or places within a single COTP Zone)
Vessel operates between ports or places in more than one COTP Zone and takes on and discharges ballast water exclusively in one COTP Zone	Exempt	Applicable	Applicable

5. Amend § 151.2060 as follows:

- a. Revise paragraph (b);
- b. Redesignate paragraph (c) as paragraph (d);
- c. Add paragraph (c);
- b. Revise newly designated paragraph (d);

c. Add paragraphs (e) and (f) to read as set out below:

§ 151.2060 Reporting requirements.

\* \* \* \* \*

(b) Unless operating exclusively on voyages between ports or places within a single COTP Zone, the master, owner, operator, agent, or person in charge of a vessel subject to this subpart and this section must submit a ballast water report to the National Ballast Information Clearinghouse (NBIC) by electronic ballast water report format using methods specified at the NBIC's website at <http://invasions.si.edu/nbic/submit.html>. The ballast water report will include the information listed in paragraph (c) and must be submitted as follows:

(1) For any vessel bound for the Great Lakes from outside the EEZ:

(i) Submit a ballast water report at least 24 hours before the vessel arrives in Montreal, Quebec.

(ii) Non-U.S. and non-Canadian flag vessels may complete the St. Lawrence Seaway Ballast Water Form and submit it in accordance with the applicable Seaway notice as an alternative to this requirement.

(2) For any vessel bound for the Hudson River north of the George Washington Bridge entering from outside the



EEZ: Submit the ballast water report at least 24 hours before the vessel enters New York, NY.

(3) For any vessel that is equipped with ballast water tanks and bound for ports or places in the United States and not addressed in paragraphs (b)(1) and (b)(2) of this section: Submit the ballast water report no later than 6 hours after arrival at the port or place of destination, or prior to departure from that port or place of destination, whichever is earlier.

(c) The ballast water report required by paragraph (b) will include the following information:

(1) Vessel information. This includes the vessel's name, International Maritime Organization (IMO) number or other vessel identification number if an IMO number is not issued, country of registry, operator, type and tonnage.

(2) Voyage information. This includes the port and date of arrival, vessel agent name and contact information, last port and country of call, and next port and country of call.

(3) Ballast water information. This includes the vessel's total ballast water capacity, total number of ballast water tanks, total volume of ballast water onboard, and total number of ballast water tanks in ballast. All volumes are reported in cubic meters (m<sup>3</sup>).

(4) Information on ballast water tanks that are to be discharged into the waters of the United States or to a reception facility. Include the following for each tank discharged:

(i) The numerical designation, type and capacity of the ballast tank.

(ii) The source of the ballast water. This includes date(s), location(s), and volume(s). If a tank has undergone ballast water exchange, provide the loading port of the ballast water that was discharged during the exchange.

(iii) The date(s), starting location(s), ending location(s) and method(s) of ballast water management.

(iv) The date(s), location(s), and volume(s) of any ballast water discharged into the waters of the United States or to a reception facility.

(5) Certification of accurate information. Include the name and title of the individual (i.e. master, owner, operator, agent, person in charge) attesting to the accuracy of the information provided and that the activities were in accordance with the ballast water management plan required by § 151.2050(g). If exceptional circumstances required deviation from the plan, the details

surrounding the need for deviation and associated actions must be explained.

(d) If the information submitted in accordance with paragraph (c) changes, the master, owner, operator, agent, or person in charge of the vessel must submit an amended report before the vessel departs the waters of the United States or not later than 24 hours after departure from the port or place, whichever is earlier.

(e) The master, owner, operator, agent, or person in charge of a vessel operating on voyages exclusively between ports or places within a single COTP Zone, and subject to this subpart and this section, must submit the information required by paragraph (f) to the National Ballast Information Clearinghouse (NBIC) by electronic Annual Ballast Water Summary Report format using methods specified at the NBIC's website at <http://invasions.si.edu/nbic/submit.html>. The Annual Ballast Water Summary Report will be required for a period of three years on the following schedule:

(1) Report on the vessel's ballasting practices for calendar year [INSERT 1 YEAR AFTER THE DATE OF PUBLICATION OF FINAL RULE] due no later than March 31, [INSERT 2 YEAR AFTER THE DATE OF PUBLICATION OF FINAL RULE].

(2) Report on the vessel's ballasting practices for calendar year [INSERT 2 YEAR AFTER DATE OF PUBLICATION OF THE FINAL RULE] due no later than March 31, [INSERT 3 YEARS AFTER DATE OF PUBLICATION OF FINAL RULE].

(3) Report on the vessel's ballasting practices for calendar year [INSERT 3 YEARS AFTER DATE OF PUBLICATION OF FINAL RULE] due no later than March 31, [INSERT 4 YEARS AFTER DATE OF PUBLICATION OF FINAL RULE].

(f) The Annual Ballast Water Summary Report will include the following information:

(1) Vessel information. This includes name, identification number, vessel type, operator, tonnage, call sign and COTP Zone of operation.

(2) Ballast information. This includes the number of ballast tanks and total ballast water capacity.

(3) Operational information. This includes primary port of ballast water loading, primary port of ballast water discharge, estimated number of trips where ballast water is discharged, estimated volume of ballast water discharged per trip and certification of compliance with § 151.2050.

6. Revise § 151.2070 to read as follows:

§ 151.2070 Recordkeeping requirements.

(a) The master, owner, operator, agent, or person in charge of a vessel bound for a port or place in the United States, unless specifically exempted by § 151.2015 of this subpart, must ensure the maintenance of written records that include the following information:

(1) Vessel information. This includes the vessel's name, International Maritime Organization (IMO) number (or other vessel identification number if IMO number is not issued), gross tonnage, total ballast water capacity, and country of registry (flag).

(2) Ballast water uptake information. This includes the date(s) and location(s) where the ballast water was taken on board, the volume(s) of the ballast water taken on board, and the numerical designation(s) of the tank(s) receiving the ballast water. Record all volumes in cubic meters (m<sup>3</sup>).

(3) Ballast water management information. This includes the date(s) and location(s) where the management takes place, the volume(s) of ballast water managed, the numerical designation(s) of the tank(s) managed, and the management method used. Record all volumes in cubic meters (m<sup>3</sup>).

(4) Ballast water discharge information. This includes the date(s) and location(s) of where the ballast

water was discharged, the volume(s) of ballast water discharged, the numerical designation(s) of the tank(s) from which the ballast water was discharged, and whether the discharge was into the surrounding waters or to a reception facility. Record all volumes in cubic meters (m<sup>3</sup>).

(5) Discharge of sediment. If sediment was discharged within the jurisdiction of the United States, include the name and location of the facility where the sediment discharge took place.

(6) Certification of accurate information. Include the master, owner, operator, agent, person in charge, or responsible officer's printed name, title, and signature attesting to the accuracy of the information provided and that the activities were in accordance with the ballast water management plan required by § 151.2050(g). If exceptional circumstances required deviation from the plan, the details surrounding the need for deviation and associated actions must be explained.

(b) The master, owner, operator, agent, or person in charge of a vessel subject to this section must retain a signed copy of this information onboard the vessel for 2 years.

(c) The master, owner, operator, agent, or person in charge of a vessel subject to this section must retain the monitoring records required in 46 CFR 162.060-20(b) for 2 years. These records may be stored on digital media but must be readily viewable for Coast Guard inspection.

Dated: **May 29, 2013**

J. G. LANTZ  
Director of Commercial Regulations and Standards  
U.S. Coast Guard

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